



PATENT
Attorney Docket No. 04329.3284-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
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Hiroyuki WATANABE)	Group Art Unit: 2416
)	
Application No: 10/806,427)	Examiner: Abdulla A. Riyami
)	
Filed: March 23, 2004)	
)	
For: INFORMATION PROCESSING)	Confirmation No.: 2944
DEVICE AND PROGRAM)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests a pre-appeal brief review of the rejections in the Final Office Action mailed January 7, 2009, the period for response to which extends through April 7, 2009. This Request is being filed concurrently with a Notice of Appeal, in accordance with the Official Gazette Notice of July 12, 2005.

A pre-appeal brief review of the rejection set forth in the Final Office Action is proper because: (1) the application has been at least twice rejected; (2) a Notice of Appeal has been concurrently filed; and (3) this Pre-Appeal Brief Request for Review is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. See Official Gazette Notice, July 12, 2005.

Remarks begin at page 2 of this paper.

REMARKS

In the Final Office Action, the Examiner rejected claims 1, 3-9, 11, and 12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,144,855 to Slovin ("Slovin") in view of U.S. Patent Application Publication No. 2005/0221846 to Jansen ("Jansen") and U.S. Patent No. 5,914,668 to Chavez, Jr. et al. ("Chavez").¹ Claims 1, 3-9, 11, and 12 remain currently pending.

Applicant respectfully traverses the Section 103(a) rejection of claims 1, 3-9, 11, and 12 because Slovin in view of Jansen and Chavez clearly fail to teach or suggest all of the claim recitations set forth in claims 1, 3-9, 11, and 12.

For example, independent claim 1 recites "a counting unit configured to count a finding frequency of [a] wireless relay apparatus found by [a] finding unit," and "a displaying unit configured to display one of characters indicated by the image data stored in [a] storing unit and representing a character of the identification information of the wireless relay apparatus detected by [a] detector in a display form which is in accordance with the finding frequency counted by the counting unit." (emphases added). Slovin, Jansen, and Chavez fail to teach or suggest at least these features recited in independent claim 1.

The Office Action acknowledges that "Slovin does not expressly disclose a counting unit configured to count a finding frequency of the wireless relay apparatus found by the finding unit." (Office Action at 4.) However, the Office Action alleges that "Jansen discloses a counting unit configured to count a finding frequency of the wireless

¹ The Examiner indicates that "Applicant's arguments with respect to claims 1, 3-9, and 11-12 have been considered but are moot in view of new ground(s) of rejection." (Office Action at 2.) However, Applicant notes that the Section 103(a) rejection of claims 1, 3-9, 11, and 12, based on Slovin in view of Jansen and Chavez, is exactly the same as the Section 103(a) rejection of claims 1, 3-9, 11, and 12 in the previous Office Action of July 9, 2008.

relay apparatus (see paragraph 17, lines 1-11, searching for an available frequency using a limited number of search frequencies and then counting the number of times the corresponding frequency has been used, see figure 3, search frequency 121, and count value 122).” (Office Action at 4.) Applicant respectfully disagrees.

In the paragraph cited by the Examiner, Jansen explicitly states:

The invention provides, according to a first aspect, a method for initial synchronization in a mobile telecommunications network to connect a mobile terminal to a base station, the mobile terminal having a search frequency list comprising a limited number of search frequencies, the method comprising the step of searching for an available frequency in the order of the search frequency list, the search frequency list further comprising count values, indicating how frequently the corresponding frequency has been used, wherein the order of at least some of the search frequencies depends on the count values.

(Jansen, para. [0017], emphasis added.)

That is, Jansen uses the search frequency list to indicate how frequently a particular frequency of the radio wave is used. Id. Therefore, Jansen merely teaches counting values, indicating how frequently the corresponding frequency has been used, i.e., the number of times the corresponding frequency is used. However, in Jansen, the number of times that a particular frequency is used to search for a wireless device does not necessarily correspond to a number of times a particular wireless device is found.

In other words, contrary to Jansen, the counting unit as recited in claim 1 counts “a finding frequency of [a] wireless relay apparatus found by [a] finding unit,” i.e., the number of times which the wireless relay apparatus is found by the finding unit.²

Therefore, Jansen's teaching of a radio search frequency list clearly does not constitute

² For example, page 14, line 13 of the specification clearly indicates that the finding frequency corresponds to a number of times the wireless relay apparatus that is found by the finding unit.

“a counting unit configured to count a finding frequency of [a] wireless relay apparatus found by [a] finding unit,” as recited in claim 1 (emphasis added).

In fact, Slovin, Jansen, and Chavez fail to even mention any “finding frequency of the wireless relay apparatus found by [a] finding unit,” as recited in claim 1.

The Office Action also acknowledges that “Slovin and Jansen do not expressly disclose . . . a displaying unit configured to display one of characters indicated by the image data stored in the storing unit and representing a character of the identification information of the wireless relay apparatus detected by the detector in a display form.” (Office Action at 5.)

However, the Office Action alleges that “Chavez, Jr. et al. discloses . . . a displaying unit configured to display one of characters indicated by the image data stored in the storing unit and representing a character of the identification information of the wireless relay apparatus detected by the detector in a display form (see figure 5, base station selection, 501, 502, 503, 504, column 4, lines 56-66, the wireless terminal is responsive to the activation of button 208 to determine the four base stations having the strongest signal strength).” (Office Action at 5-6.)

In the portions cited by the Examiner, Chavez explicitly states that

In FIG. 5, the base station identification information gives the actual physical location of the base stations with respect to known building location parameters. . . . The information given in locations 501-504 represents the physical location of base stations having the strongest signal strength currently being received by wireless terminal 106 in descending strength.

(Chavez, column 4, line 45-60, emphasis added.)

Chavez's teaching of giving information representing bases stations with descending signal strength does not constitute “a displaying unit configured to display

one of characters indicated by the image data stored in [a] storing unit and representing a character of the identification information of [a] wireless relay apparatus detected by [a] detector in a display form which is in accordance with [a] finding frequency counted by [a] counting unit," as recited in claim 1 (emphasis added).

Therefore, for at least the above reasons, Slovin, Jansen, and Chavez fail to teach or suggest all claim elements of claim 1. Accordingly, the Section 103(a) rejection of claim 1 should be withdrawn. Further, since independent claim 9, while of different scope, recites similar features to those of claim 1, claim 9 should therefore also be allowable for reasons at least similar to those stated above. Because claims 3-8 depend from claim 1, and claims 11 and 12 depend from claim 9, claims 3-8, 11, and 12 should also be allowable for at least as being dependent from an allowable base claim.


Applicants respectfully request a favorable pre-appeal review and the allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: April 6, 2009

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